

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**  
**Department of Workforce Investment**  
**(Amendment)**

**787 KAR 2:040. Local workforce development area governance.**

RELATES TO: KRS 151B.020(6), 29 U.S.C. 3101 et seq.

STATUTORY AUTHORITY: KRS 151B.020(6)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 151B.020(6) requires the secretary of the Education and Workforce Development Cabinet to promulgate administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. This administrative regulation establishes the membership criteria and operating guidelines for local workforce development boards, requires interlocal and partnership agreements for local workforce development areas, establishes the process for the identification of regions and designation of local workforce development areas, establishes the guidelines for the hiring of staff by local workforce development boards, and requires a written agreement for entities that perform multiple functions in a local workforce development area under the Workforce Innovation and Opportunity Act, 29 U.S.C. 3101 et seq. In addition to the minimum federal requirements set forth in 29 U.S.C. 3122, this administrative regulation provides further guidance and clarification necessary for effective local implementation activities.

Section 1. Local workforce development board membership criteria and operating guidelines. Each chief local elected official in a local workforce development area shall appoint members to the local workforce development board and each local workforce development board shall operate in compliance with the Workforce Innovation and Opportunity Act (WIOA). ~~[— Local Workforce Development Board (LWDB) Member Nomination Guidelines, Office of Employment and Training (OET/agency) Confirmation Process and Board Certification, Policy Number 15-001.]~~

Section 2. Interlocal agreement. Each local elected official of a unit of general local government within a local workforce development area shall jointly execute a written interlocal agreement that, at a minimum, complies with the Workforce Innovation and Opportunity Act. ~~[— Interlocal Agreements, Chief Local Elected Official and Local Elected Official Roles and Responsibilities, Policy Number 15-002.]~~

Section 3. Partnership agreement. Each chief local elected official, representing the local elected officials in a local workforce development area, and each designated chair, representing the local workforce development board, shall jointly execute a written partnership agreement that, at a minimum, complies with the Workforce Innovation and Opportunity Act. ~~[— Local Elected Official(s) and Local Workforce Development Board Partnership Agreement, Policy Number 15-003.]~~

Section 4. Identification of regions and designation of local workforce development areas. The process and procedures for the identification of regions and the designation of local workforce development areas within the Commonwealth of Kentucky shall be in compliance with WIOA. ~~[the Identification of Regions and Designation of Local Workforce Development Areas, Policy Number 15-004.]~~

Section 5. Hiring of staff for local workforce development boards. Local workforce development boards may hire a director and other staff in accordance with WIOA. [~~Local Workforce Development Board Staff, Policy Number 17-001.~~]

Section 6. Entities performing multiple functions in a local workforce development area. Entities that have been selected or otherwise designated to perform more than one (1) function in a local workforce development area shall develop a written agreement that, at a minimum, complies with WIOA. [~~Internal Controls and Conflicts of Interest Requirements for Entities Performing Multiple Functions, Policy Number 17-002.~~]

~~Section 7. Incorporation by Reference. (1) The following material is incorporated by reference:~~

~~(a) The "Workforce Innovation and Opportunity Act (WIOA) — Local Workforce Development Board (LWDB) Member Nomination Guidelines, Office of Employment and Training (OET/agency) Confirmation Process and Board Certification", Policy Number 15-001, March 31, 2017;~~

~~(b) The "Workforce Innovation and Opportunity Act — Interlocal Agreements, Chief Local Elected Official and Local Elected Official Roles and Responsibilities", Policy Number 15-002, March 31, 2017;~~

~~(c) The "Workforce Innovation and Opportunity Act — Local Elected Official(s) and Local Workforce Development Board Partnership Agreement", Policy Number 15-003, October 1, 2015;~~

~~(d) The "Identification of Regions and Designation of Local Workforce Development Areas", Policy Number 15-004, May 14, 2015;~~

~~(e) The "Local Workforce Development Board Staff", Policy Number 17-001, March 31, 2017; and~~

~~(f) The "Internal Controls and Conflicts of Interest Requirements for Entities Performing Multiple Functions", Policy Number 17-002, March 31, 2017.~~

~~(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Employment and Training, 275 E. Main Street, 2nd Floor, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m.]~~

MARTY HAMMONS, Commissioner

APPROVED BY AGENCY: August 12, 2021

FILED WITH LRC: August 13, 2021

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this amended administrative regulation shall be held October 14, 2021 at 10:00 a.m. (EDST) at the Education and Workforce Development Cabinet, 500 Mero Street, 4th Floor, Secretary's Conference Room, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through October 31, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Honor Barker, Deputy Commissioner, Department of Workforce Investment, 500 Mero Street, 4th Floor, Frankfort, Kentucky 40601, phone (502) 782-3746, email Honor.Barker@ky.gov.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Honor Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: The regulation directs how local Workforce Development Areas are to be governed, and adopts and implements the related provisions of the Workforce Innovation & Opportunity Act for the Commonwealth.

(b) The necessity of this administrative regulation: This amended administrative regulation is necessary to assist the Secretary and Deputy Secretary of the Cabinet for Education and Workforce Development, Commissioner of the Department for Workforce Investment in carrying out their statutory duties of oversight and compliance of the local workforce development areas, as set forth in the Workforce Innovation and Opportunity Act.

(c) How this administrative regulation conforms to the content of the authorizing statutes: 20 C.F.R. § 679.300 et seq sets forth the governing regulations for how local workforce development boards are to be organized, lead and staffed.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective and efficient administration for the Department of Workforce Investment in implementing the related provisions of the Workforce Innovation and Opportunity Act.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Removes the specific policy numbers associated with the regulatory structure.

(b) The necessity of the amendment to this administrative regulation: The regulation needed to be modified and updated in accordance with the certification letter filed by the EWDC Cabinet in February 2020, to prevent the regulation from sunseting.

(c) How the amendment conforms to the content of the authorizing statutes: The regulation mirrors the provisions of 20 C.F.R. § 679.300 et seq the Workforce Innovation and Opportunity Act.

(d) How the amendment will assist in the effective administration of the statutes: The removal of the specific policy number and the relevant incorporation by reference will allow the Department of Workforce Investment to be more efficient. The regulation will not have to be amended if there is technical change or small update or modification to the policy that is consistent with the promulgated regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: This amended administrative regulation affects the Education and Workforce Development Cabinet, Department of Workforce Development, Labor Cabinet, and the Career Development Office, the Kentucky Workforce Innovation Board, and local Workforce Development Areas, the local Workforce Development Boards and staff.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to comply with this administrative regulation or amendment: there will be no change to the current

organizational structure and requirements of the Local Workforce Development Boards, as the amendment simply removes the incorporate by reference specific policies.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): there will be no cost to any party with these proposed modifications.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): This amended administrative regulation enables the monitoring of the local areas to be more nimble with updates to policies, without the need to amend through the formal regulatory process.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: There will be no cost to implement the modification as the substance of the regulation has not changed.

(b) On a continuing basis: There will be no substantive changes, and thus no costs to implement.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Work Innovation and Opportunity Act provides the funds for the Department of Workforce Investment, Division of Technical assistance to perform all compliance and monitoring of the local workforce development areas.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: There will no increase in fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No fees impacted.

(9) TIERING: Is tiering applied? Tiering is not applied because all local areas will be subject to administrative regulation equally.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Workforce Investment, all local Workforce Development Area board and staff.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. This amended administrative regulation is authorized by 20 C.F.R. § 679.300 et seq, the provisions of the Workforce Innovation and Opportunity Act that specifically govern local workforce development board.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This amended administrative regulation is not anticipated to generate additional revenues for the agency.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This emergency administrative regulation is not anticipated to generate additional revenues for the agency.

(c) How much will it cost to administer this program for the first year? There will be no change in program administration based upon these amendments.

(d) How much will it cost to administer this program for subsequent years? The cost of administration of the Workforce Innovation and Opportunity Act varies year to year based upon the formula of funds received from the United States Department of Labor, but there will be no change with this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): Neutral

Expenditures (+/-): Neutral

Other Explanation: None